

Filed for intro on 04/28/97
SENATE BILL 1999 By
Herron

HOUSE BILL 1989
By Pinion

AN ACT to repeal Chapter 22 of the Private Acts of 1971 and Chapter 257 of the Private Acts of 1980, relative to continuing the corporate existence of the Town of Obion, Tennessee and to enact a new charter for such corporation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The Town of Obion, Tennessee, shall continue as a body politic and corporate by the name and style of Obion, Tennessee, and this act shall constitute its complete Charter. The Town of Obion shall have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

SECTION 2. As used in this Charter the following words and terms shall have the following meanings;

(1) "Council Member" shall mean a person elected to the office of Alderman as provided in this Charter:

(2) "At large" means the entire town, as distinguished from representation by wards or other districts;

(3) "Board of Mayor and Councilmen" and "Board" means the legislative body of the town, which shall be composed of the Mayor and six (6) Councilmen elected as provided in this Charter;

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(4) "Elector" means a qualified voter residing within the Town for a period of six (6) months preceding an election;

(5) "Nonpartisan" means without any designation of candidates as members or candidates of any state or national political party or organizations;

(6) "Town" means the town of Obion; and

(7) The masculine shall include the feminine, and the singular shall include the plural and vice versa, except when the contrary intention is manifest.

SECTION 3. The boundaries of the Town shall be those fixed by Chapter 22 of the Private Acts of 1971, and all acts amendatory thereto, and annexations made pursuant to general law.

SECTION 4. The Town shall have power:

(1) To assess property for taxation, and to levy and provide for the collection of taxes on all property subject to taxation;

(2) To levy and collect privilege taxes on businesses, privileges, occupations, trades and professions, and to levy and collect any other kind of tax not prohibited to cities by the Constitution or general law;

(3) To levy and collect registration fees on motor vehicles operated within the Town. Such registration fees may be graduated according to the tonnage capacities, weight, or horsepower of motor vehicles;

(4) To appropriate and borrow money as authorized in this Charter, and to authorize the expenditure of money for any municipal purpose;

(5) To acquire land, including improvements thereon, easements, or limited property rights thereto, by purchase, gift or condemnation, for public use, for present or future use by the Town, to reserve industrial sites, to provide open spaces, to encourage proper development of the community, or for the general welfare of the community. Such acquisitions may be within or outside the Town.

(6) To grant franchises or make contracts for public utilities and public services, not to exceed a period of twenty-five (25) years. Such franchises and contracts may provide for rates, fares, charges, regulations and standards and conditions of service, subject to regulation by the Tennessee Regulatory Authority or other state or federal agency having jurisdiction in such matters;

(7) To provide for the acquisition, construction, building, operation, and maintenance of: public ways, parks, public grounds, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment plants, airports, hospitals, water works, docks, gas works, marinas, forests, tree and shrub nurseries, heliports, terminals, parking garages and lots, industrial sites and buildings; charitable, educational, recreational, sporting, cultural, curative, corrective, detentive, penal, and medical institutions, agencies, and facilities; and any other public improvements, inside or outside the Town; and to regulate the use thereof; and for such purposes property may be either acquired or taken under applicable laws;

(8) To require property owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands, including removal of snow, debris or other material;

(9) To make regulations to secure the general health of the inhabitants and to prevent, abate, and remove nuisances, including but not limited to old or dilapidated buildings which are so out of repair as to be unsafe, unsanitary or unsightly. The Town shall have the power to abate and remove nuisances at the expense of the owner or owners, and the expense, including fines, penalties, and interest, shall be secured by a lien upon the property for which the expenditure is made;

(10) To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

(11) To provide for the collection and disposal of garbage, rubbish and refuse. Charges may be imposed to cover the costs of such service which, if unpaid, shall be collectible in the same manner as taxes and other debts;

(12) To define, regulate, and prohibit any act, practice, conduct, or use of property, that would be detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, or general welfare of the inhabitants of the Town;

(13) To establish minimum standards for and to regulate building construction and repair, electrical wiring and equipment, gas installations and equipment, fixed mechanical equipment, plumbing, and housing, for the health, sanction, cleanliness, safety and comfort of the inhabitants of the Town and to provide for the enforcement of such standards;

(14) To provide regulations establishing standards of weights and measures and to enforce compliance with such standards;

(15) To regulate, license and prohibit the keeping or running at large of animals and fowls, and to provide for the impoundment of same in violation of any ordinance or lawful order, and to provide for their disposition by sale, gift, or humane killing when not redeemed as provided by ordinance;

(16) To regulate and license vehicles operated for hire in the Town, to limit the number of such vehicles, to license the operators thereof, to require public liability insurance on such vehicles, and to regulate and rent parking spaces in public ways for the use of such vehicles;

(17) To provide that the violation of any ordinance, rule, regulation, or order shall be punishable by fine, penalty, or forfeiture not to exceed fifty dollars (\$50) and costs.

(18) To plan for the orderly development of the community, including economic, physical, educational and cultural aspects, and to institute programs to effectuate such plans; and

(19) To exercise and have all other powers, functions, rights, privileges, and immunities granted by general laws or necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the Town and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this Charter as fully and completely as if such powers were enumerated herein. No enumeration of particular powers in this Charter shall be held to be exclusive of others nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to cities by the Constitution or general laws of the state.

SECTION 5.

(a) Until the election in 1991, an election shall be held on the last Saturday of April in odd years to elect a Mayor and six (6) Councilmen from the Town at large for terms of two (2) years, or until their successors are elected and qualified.

(b) On the last Saturday of April, 1997, an election shall be held to elect a Mayor and six (6) Councilmen for a term ending on the date of the state general election in November, 1998, or until their successors are elected and qualified.

(c) On the date of the state general election in November, 1998, and every two (2) years on the same date of the general election thereafter, an election shall be held to elect a Mayor and six (6) Councilmen for a term of two (2) years, or until their successors are elected and qualified.

(d) Each elector shall be entitled to vote for one (1) candidate for Mayor, and six (6) candidates for Councilmen in each election. The candidate for Mayor, and the six (6) candidates for Councilmen, receiving the highest number of votes for their respective offices shall be declared the winner of those offices. Elections shall be nonpartisan.

(e) The terms of office for the Mayor and for the Councilmen shall commence at 12:00 noon on the first Wednesday in May, 1997. Thereafter the terms of office shall

commence at 12:00 noon on the next Friday of November after the election and certification of the candidates.

SECTION 6. Giving or promising to any person or persons any office, employment, money, benefit, or anything of value, by or on behalf of any candidate, is a violation of this charter and a person who violates this section shall be ineligible to hold an office or position of employment in the town government for a period of five (5) years.

SECTION 7.

(a) The Mayor and six (6) Councilmen elected under this Charter shall compose the Board of Mayor and Councilmen, in which is vested all corporate, legislative and other powers of the Town, except as otherwise provided in this Charter.

(b) The compensation of the Mayor and Councilmen shall be set by ordinance, but the salary of the Mayor or any Councilman shall not be changed during their term of office. The Mayor and Councilmen may be reimbursed for actual and necessary expenses incurred in the conduct of their official duties.

(c) The Board of Mayor and Councilmen shall meet regularly at least once every month at the times and places prescribed by ordinance. The Board shall meet in special sessions on written notice of the Mayor or any two (2) Councilmen and served on the other members of the Board or as agreed upon by a duly adopted motion at a regular or special meeting. Only the business stated in the written call or stated at the meeting when the special meeting is called may be transacted at a special meeting.

(d) A majority of the Board of Mayor and Councilmen, excluding any vacancies, shall constitute a quorum. All affirmative votes shall require four (4) positive votes. The ayes and nays of all votes shall be recorded in the journal. The Board may by ordinance adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The Board may subpoena and examine witnesses and order the production of books and papers.

SECTION 8. The Mayor shall preside at meetings of the Board, and shall have a vote on all matters. He shall be recognized as the ceremonial head of the Town. He shall be the officer to accept process against the Town, and shall perform other duties imposed by this Charter and by ordinances not inconsistent with this Charter.

SECTION 9. There shall be a Vice-Mayor who shall be selected at the first meeting after each election by the Board from among their number. The term of office of the Vice-Mayor shall be for a period of two (2) years. The Vice-Mayor shall perform the duties of the Mayor during his temporary absence or inability to act. In case of a vacancy in the office of Mayor, the Vice-Mayor shall fill out the unexpired term, or until the next regular Town election, whichever shall occur first. If the Vice-Mayor is filling out a term in the office of Mayor, his position as Councilman shall become vacant and the Board shall fill the vacancy as provided in Section 10. The Board shall select another of their number to fill out the unexpired term of Vice-Mayor.

SECTION 10. The Board of Mayor and Councilmen shall declare that a vacancy exists if the Mayor or a Councilman resigns, dies, moves his residence from the Town, is convicted of malfeasance or misfeasance in office, a felony, a violation of this Charter or election laws of the state, or a crime involving moral turpitude, fails to attend any meetings of the Board for a period of ninety (90) days with no extenuating circumstances, or has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office.

The Board of Mayor and Councilmen shall, within a period of thirty (30) days from the date on which a vacancy was declared, appoint a qualified person to fill the vacancy for the remainder of the unexpired term or until the next regular Town election, which ever shall occur first. If the next regular Town election occurs within six (6) months of the date of a vacancy then the Board and Mayor shall not be required to appoint a person to fill the vacancy.

SECTION 11. The Councilmen shall act on all matters as a body, and no member shall seek individually to influence the official acts of any officer or employee of the Town, or to direct or request the appointment of any person to, or his removal from, any office or position of

employment, or to interfere in any way with the performance of duties by any officer or employee. The Board shall deal with the various agencies, officers, and employees of the Town, solely through the Mayor, and shall not give orders to any subordinates of the Mayor, either publicly or privately. Nothing herein contained shall prevent the Board from conducting such inquiries into the operation of the Town government and the conduct of the Town's affairs as it may deem necessary.

SECTION 12. Any action of the Board having a regulatory or penal effect, awarding franchises, or required to be done by ordinance under this Charter or the general laws of the state, shall be done only by ordinance. Other actions may be accomplished by resolutions or motions. Ordinances and resolutions shall be in written form before being introduced. The enacting clause on Ordinances shall be: "Be it ordained by the Board of Mayor and Councilmen of the Town of Obion." Every ordinance must be approved on two (2) readings and there shall be no more than one (1) reading on any one (1) day. An ordinance may receive first reading upon its introduction. Ordinances shall take effect upon final reading and adoption unless a different effective date is designated in the ordinance.

SECTION 13. The Town government shall be organized into such departments and offices as shall be provided by ordinance. The Board shall determine by ordinance the functions and duties of all departments and offices. The Board may establish, abolish, merge, or consolidate offices, positions of employment and departments; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment and departments.

SECTION 14. The Mayor shall have the powers of a business manager; he shall have supervision and control of all the administrative affairs of the Town. The Mayor shall be its chief executive. He shall have access to all of the books, records, offices and papers of every kind pertaining to the Town's business and require their proper and safe keeping. He shall present in

writing or verbally to the Board his recommendations of the needs of the Town at any time he deems advisable.

The Mayor shall have control over all municipal improvements and property and he shall have the exclusive power to make all expenditures within the budget after the same have been appropriated by the Board. He and the Board shall be governed by the Municipal Purchasing Act of 1983 as amended in 1988 and all future amendments. (Tennessee Code Annotated, Title 6, Chapter 56, Part 3).

The Mayor shall take all proper measures for the preservation of public order and preservation of the peace and he may call upon the Governor for military aid.

The Mayor with the approval of the Board, shall have the authority to make appointments, promotions and transfers of employees, to make demotions, suspensions and removals of officers and employees.

The Mayor shall appoint, by approval of the Board, the Town Recorder and any other employee who is designated a department head by ordinance.

SECTION 15. The Mayor shall appoint, subject to confirmation by the Board, a Town Recorder, who shall serve for an indefinite term.

The Town Recorder shall keep and preserve the Town seal and all official records not required by law or ordinance to be filed elsewhere, to attend all meetings of the Board and to maintain a journal showing the proceedings of all such meetings, the Councilmen present and absent, each motion considered, the title of each resolution and ordinance considered and the vote on each question; and to prepare and certify copies of official records.

The Town Recorder shall act as Tax Collector and issue receipts for tax collected and enter on the tax book the payment of taxes on the date on which they are collected.

The Town Recorder may act as Treasurer and shall receive and keep safely all funds of the Town and shall pay out the same upon warrants signed by the Mayor and Town Recorder.

SECTION 16. The Mayor, subject to confirmation by the Board, shall appoint a Town Attorney. The Town Attorney shall be responsible for advising the Board and officers and employees concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents; and performing such other duties as may be prescribed by the Board.

SECTION 17. A Town Judge shall be appointed by the Mayor, subject to the confirmation of the Board. A person designated by the Mayor shall serve in the absence or incapacity of the Judge.

The jurisdiction of the Town Judge shall extend to the trial of all offenses against the ordinances of the Town, and costs in such trials shall be fixed by ordinance. The Town Judge shall have power to levy fines, penalties, forfeitures and costs, to issue all necessary process, to administer oaths, and to maintain order including the power which the court of General Sessions has to fine for contempt. The sole compensation for serving as Town Judge shall be a salary fixed by the Board, and all fees for actions for cases in his court shall belong to the Town and shall be paid into the Town treasury.

The bail of persons arrested and awaiting trial and persons appealing a decision of the Town Judge shall be fixed by the Town Judge, upon such security as in his discretion he deems necessary or as may otherwise be provided by ordinance. Cash bail of persons arrested may be accepted at such times and by officers or employees other than the Judge provided by ordinance; such ordinance shall require that the person arrested be given a receipt for cash bail which shall explain the nature of the deposit. The receipt shall be in triplicate: the original to the depositor, duplicate and money to the Recorder, and duplicate to the Town Judge within twenty-four (24) hours after the arrest.

Fines and costs may be paid by installments to be fixed and security determined as provided by ordinance. Upon willful failure to pay fines and costs or to furnish security, the Town Judge shall commit the offender to the appropriate facility for incarceration until such fines and

costs have been paid at a daily rate of commutation fixed by ordinance, but no person shall be continuously confined in excess of sixty (60) days. Receipts of the city court shall be deposited with the Town Recorder and the Town Judge shall make monthly reports thereof to the Board.

The Town Judge shall keep a docket of all cases handled by him. The Town Judge shall make such report to the Board of Mayor and Councilmen as requested by them.

The Town Judge shall be exclusive judge of the law and the facts in every case before him, and no officer or employee of the Town shall attempt to influence his decision except through pertinent facts presented in open court.

SECTION 18. Only the officers and positions of employment provided for in the annual budget, as approved by the Board, shall be filled. In determining salaries, due consideration shall be given to duties, responsibilities, technical knowledge and skill required to satisfactorily perform the work, and availability of persons having the qualifications desired.

SECTION 19. The appointment and promotion of employees of the Town shall be on a basis of merit, considering technical knowledge required to perform satisfactorily the work, experience in the particular or similar line of work, and administrative or supervisory qualifications.

SECTION 20. The Board may adopt supplementary rules and regulations governing employment by the Town, not inconsistent with the provisions of this Charter.

SECTION 21. Before a person takes any office in the Town government, he shall subscribe to the following oath or affirmation, administered by the Recorder or the Mayor: "I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Tennessee, that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Obion, and that I will faithfully discharge the duties of the office of____."

SECTION 22. The Mayor and every officer, agent, and employee of the Town having duties embracing the receipt, disbursement, custody, or handling of money, and other officers

and employees designated by the Board, shall give a fidelity bond or faithful performance bond, as determined by the Board with some surety company authorized to do business in the state of Tennessee, in such amount as shall be prescribed by the Board. All such bonds and sureties thereto shall be subject to approval by the Board and the cost of such bonds shall be paid by the Town.

SECTION 23. No employee of the Town shall continue in the employment of the Town after becoming a candidate for nomination or election to any Town office, but this provision shall not apply to the Mayor, Councilmen, members of boards or commissions, the Town Attorney or the Town Judge. No person shall directly or indirectly give, render or pay any money, service or other valuable consideration to any person for or on account of or in connection with employment by the Town government. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution from any employee of the Town in connection with any Town election. Any person who by himself or with others willfully or corruptly violates any provision of this section violates this charter and such person shall immediately forfeit and vacate the office or position he holds and be ineligible to hold any office or position of employment in the Town government for a period of five (5) years thereafter.

SECTION 24. No officer or employee shall accept any free or preferred service, benefits or concessions from any person, company, or firm regulated by or doing business with the Town.

SECTION 25. The fiscal year of the Town government shall begin on the 1st day of July and shall end on the 30th day of June of the succeeding year.

SECTION 26. Thirty (30) days prior to the beginning of each fiscal year, the Mayor shall submit to the Board a proposed budget for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following:

- (1) Revenue and expenditures during the preceding year;

- (2) Estimated revenue and expenditures for the current fiscal year;
- (3) Estimated revenue and recommended expenditures for the next fiscal year; and
- (4) Any other information and data, such as work programs and unit costs, in justification of recommended expenditures that may be considered necessary by the Mayor.

A copy of the budget in full shall be filed with the Town Recorder for public inspection and a copy shall be furnished to each Councilman.

SECTION 27. After a public hearing the Board shall adopt the budget with such modifications as the Board considers necessary or desirable. If emergency conditions prevent the adoption of a budget before the beginning of the new fiscal year, the appropriations of the last fiscal year shall become the appropriations for the new fiscal year. Amendments may be made to the original budget at any time during a current fiscal year after ten (10) days notice published in the newspaper and a public hearing before the Board.

The Board shall be expressly prohibited from making appropriations or donations from public funds to any group or organization either public or private.

SECTION 28. The Mayor shall be responsible for controlling expenditures of the various agencies of the Town government to accomplish maximum efficiency and economy. No expenditures shall be made in excess of appropriations.

SECTION 29. Any contract or agreement made in violation of the provisions of this Charter or Ordinances of the Town shall be void and no expenditure shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorize or make any expenditure thereunder, and their sureties on their official bonds, and every person who shall knowingly receive such a payment, shall be jointly and severally liable to the Town for the amount so paid or received. A violation of this section by any officer or employee shall be cause for his removal.

SECTION 30. The Mayor may sell Town property which is obsolete, surplus, or unusable; provided, however, that any sale for more than fifty dollars (\$50) or any sale of real estate shall be subject to approval by the Board.

SECTION 31. Each bid on a contract for any public works or improvement shall be accompanied by a cash or surety company bid bond in the amount of five percent (5%) of the amount of the bid. Before any contract is awarded, the contractor shall give a bond for the faithful performance of the contract, with a surety company authorized to transact business in Tennessee, in an amount equal to one hundred percent (100%) of the contract price.

SECTION 32. All property subject to taxation shall be subject to the property tax levied by the Town.

SECTION 33. The Town Recorder shall add to the assessment rolls any taxable property that may have been omitted by the County Assessor. Such property shall be appraised and assessed at the same ratio as other property of the same class located in the Town.

SECTION 34. The Board shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100) of assessed valuation, not later than ninety (90) days prior to the tax due date. In the event of Board's failure to do so, the prior year's tax rate shall continue in effect.

SECTION 35. The due dates of property taxes shall be fixed by ordinance and provision may be made for equal semi-annual installments. The Town shall send tax bills to taxpayers, showing the assessed valuations, amount of taxes due, tax due dates, and information as to delinquency dates and tax, penalty, or interest thereon. Property taxes which become delinquent shall be subject to penalty and interest which shall be fixed by ordinance. On and after the date when such taxes become delinquent, the tax records of the Town shall have force and effect of a judgment of a court of record.

SECTION 36. The Board may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the Mayor for the sale of goods and chattels to be executed by any police officer or the Town under the laws governing execution of such process

from a justice of the peace; or by the County Trustee as provided by general law; or by the Town Attorney acting in accordance with general laws providing for the collection of delinquent City or County taxes; by garnishment; by suits in chancery; or by any two (2) or more of the foregoing methods, or by the use of any other available legal processes and remedies.

SECTION 37. The Town may contract with the county for the collection of Town taxes. The contract may provide for reasonable fees to be paid to the county for this service.

SECTION 38. No officer or employee of the Town shall have the authority to excuse taxes, penalties, interest, special assessments, or other charges due the Town, but errors may be corrected when authorized by the Board.

SECTION 39. All disbursement, except for any agency of the Town administered by a board or commission, shall be made by checks signed by the Town Recorder and countersigned by the Mayor. The Board may designate other officers to sign such checks in the absence or disability of the Mayor or Town Recorder.

SECTION 40. The Board shall designate an official depository or depositories for deposit and safekeeping of funds of the Town, with such collateral security as may be deemed necessary by the Board.

SECTION 41. In addition to other powers granted in this Charter, the board shall have power to contract and cooperate with any other municipality or other political subdivision of the State, or with an elective or appointive official thereof, or with any duly authorized agency of the federal or State government, for the exercise of any power or function which the Town is authorized to undertake by this Charter.

SECTION 42. Notwithstanding any provision of this Charter, the Board may elect to operate under or adopt any general law or Public Act available to municipalities of the State, in lieu of or in addition to provisions of this Charter.

SECTION 43. Chapter 22 of the Private Acts of 1971 and Chapter 257 of the Private Acts of 1980, and any acts amendatory thereto, are repealed.

SECTION 44. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 45. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the Town of Obion. Its approval or nonapproval shall be proclaimed by the presiding officer of the Town of Obion and certified to the secretary of state.

SECTION 46. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 45.